

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

DOCKET COPY ORIGINAL

In the Matter of)
)
U S WEST Communications, Inc. Petition)
for Forbearance from Application of)
Section 272 of the Communications Act of)
1934 as Amended to Previously)
Authorized Services)

CC 96-149

RECEIVED

MAR 24 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

U S WEST COMMUNICATIONS, INC. PETITION FOR FORBEARANCE

U S WEST Communications, Inc. ("U S WEST") hereby petitions the Federal Communications Commission ("Commission") pursuant to Section 10 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996,¹ to forbear application of the separation requirements of Section 272 to U S WEST's E911 service. For the reasons set forth below, forbearance is appropriate. Because application of the Section 272 requirements would hinder U S WEST's ability to provide E911 service, U S WEST respectfully requests expedited consideration and approval of this Petition.

Argument

In its recent Separate Affiliate Order,² the Commission determined that interLATA information services provided by a Bell Operating Company ("BOC")

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) ("1996 Act").

² In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149,

pursuant to the Modification of Final Judgment ("MFJ") waiver must be brought into compliance with the separation requirements of Section 272.³

Early in the history of the MFJ, the MFJ Court granted the BOCs a waiver to allow them to provide E911 service. Because E911 makes available information storage and retrieval functions, the MFJ Court determined it was a (then) prohibited information service, but it granted all the BOCs a waiver to provide that service.⁴

Pursuant to that waiver, U S WEST has provided E911 service to public safety agencies, generally on an interLATA basis. That is, the database housing the subscriber information, the delivery of which enables the answering public-safety agency to identify the calling party and to know their address, is typically located in a different LATA than the E911 customer. In providing E911 service, U S WEST bundles the provision of information with any interLATA transport that might be needed to deliver the information. E911 thus appears to constitute an interLATA information service, and absent forbearance, it may be provided only within a separate affiliate.

Section 10 of the 1996 Act authorizes the Commission to forbear from applying any provision of the 1996 Act (with some exceptions not relevant here) if the Commission determines that three criteria have been met:

First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-489, rel. Dec. 24, 1996 ("Separate Affiliate Order").

³ Id. ¶ 80.

⁴ United States v. Western Electric Co., CA 82-0192 (D.D.C. February 6, 1984), Slip Op. at 5, n. 8.

1. enforcement of the provision is not necessary to ensure that the requesting carrier's rates, practices, classifications, or regulations are just and reasonable and not discriminatory;
2. enforcement of the provision is not necessary for the protection of consumers; and
3. forbearance from applying the provision is consistent with the public interest.

Forbearance of Section 272, as it would apply to U S WEST's provision of E911 service, meets all three criteria. The BOCs have provided E911 service for many years with no suggestion that the just and reasonable provision of the service or the protection of consumers requires placing it in a separate affiliate.

Forbearance is also in the public interest. As the Bell Atlantic Telephone Companies ("Bell Atlantic") noted in its Comments on BellSouth Corporation's ("BellSouth") Petition for Forbearance, the provision of E911 service is inextricably intertwined with the facilities and information of the telephone company.⁵ Moving the service to a separate affiliate would add inefficiencies, thereby increasing the costs of providing E911. The public interest will be better served by allowing U S WEST to continue to provide E911 as it has for over a decade.

⁵ See Bell Atlantic Comments, filed Mar. 6, 1997 at 3-4 to BellSouth's Petition for Forbearance filed Feb. 2, 1997. Bell Atlantic simultaneously filed with its Mar. 6, 1997 Comments a Petition for Forbearance from the Section 272 requirements regarding E911 service.

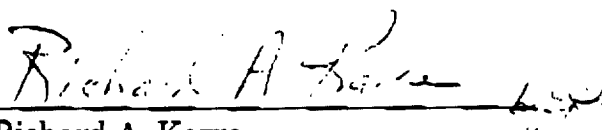
Finally, we believe it is noteworthy that nondiscriminatory access to 911 and E911 services is an element of the competitive checklist.⁶ Congress plainly contemplated that the BOCs would provide E911 service.

For the foregoing reasons the Commission should grant U S WEST's Petition for Forbearance.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

By:



Richard A. Karre
Suite 700
1020 19th Street, N.W.
Washington, DC 20036
(303) 672-2791

Its Attorney

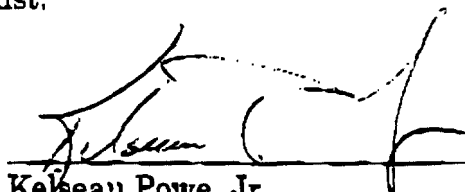
Of Counsel,
Dan L. Poole

March 14, 1997

⁶ 1996 Act, 110 Stat. at 88 § 271(c)(2)(B)(vii)(I).

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 14th day of March, 1997, I have caused a copy of the foregoing U S WEST COMMUNICATIONS, INC. PETITION FOR FORBEARANCE to be served via hand-delivery upon the persons listed on the attached service list.


Kelseau Powe, Jr.

MAR. 25. 1997 8:05AM FED REG LAW

James H. Quello
Federal Communications Commission
Room 802
1919 M Street, N.W.
Washington, DC 20554

Reed E. Hundt
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, DC 20554

Susan P. Ness
Federal Communications Commission
Room 832
1919 M Street, N.W.
Washington, DC 20554

Rachelle B. Chong
Federal Communications Commission
Room 844
1919 M Street, N.W.
Washington, DC 20554

Regina M. Keeney
Federal Communications Commission
Room 500
1919 M Street, N.W.
Washington, DC 20554

Richard K. Welch
Federal Communications Commission
Room 544
1919 M Street, N.W.
Washington, DC 20554

Janice M. Myles
Federal Communications Commission
Room 544
1919 M Street, N.W.
Washington, DC 20554

Radhika Karmarkar
Federal Communications Commission
Room 544
1919 M Street, N.W.
Washington, DC 20554

Michele Farquhar
Federal Communications Commission
Room 5002
2025 M Street, N.W.
Washington, DC 20554

International Transcription
Services, Inc.
Suite 140
2100 M Street, N.W.
Washington, DC 20037